IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

Crl.MC.No. 614 of 2007()

AGAINST THE ORDER IN LP.5/1992 IN ST 66/1991
of CHIEF JUDICIAL MAGISTRATE COURT, MANJERI

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PETITIONER: ACCUSED

M.VASUDEVAN, S/O.LATE AYYAPPAN,
KUNNATH KOLOTH HOUSE, P.O.CHETTIPPADI,
PARAPPANANGADI, MALAPPURAM DISTRICT.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT & STATE

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 614 OF 2007

Dated this the 7th day of March, 2007

ORDER

The petitioner is the accused in a prosecution under Sec.138 of the Negotiable Instruments Act. According to him, the matter was settled between the complainant and the accused. There was an omission to report composition and to withdraw the case by the complainant. Consequently, the case has now been transferred to the list of Long Pending Cases and is pending before the learned Magistrate as L.P.No.5/92. The complainant expired subsequently. The petitioner finds a warrant of arrest issued by the learned Magistrate to procure his presence chasing him. He is prepared to surrender before the learned Magistrate. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail

when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

(R. BASANT, JUDGE)

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